

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GEORGE S. MICHAEL, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 10 C 3897
)	
CHRISTINE LETCHINGER, et al.,)	Honorable Amy J. St. Eve
)	
Defendants.)	

**DEFENDANTS SUSAN GARRETT'S AND BRIAN HAMER'S
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Defendants, SUSAN GARRETT and BRIAN HAMER, by their attorney, LISA MADIGAN, Attorney General of Illinois, bring this motion to dismiss plaintiffs' complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) and state as follows:

1. On June 22, 2010, plaintiffs brought this action under 42 U.S.C. § 1983 against the Village of Lake Bluff, several Village officials, Illinois Senator Susan Garrett, and the Director of the Illinois Department of Revenue (IDR) Brian Hamer.
2. As to Senator Garrett and Director Hamer, plaintiffs' claims stem from the IDR's denial of a tax exemption for the property where the Michael family resides.
3. Specifically, plaintiffs' complaint alleges that Senator Garrett and Director Hamer "conspir[ed] to (i) close down a place of worship, and deprive its congregants of their right to utilize its services; and (ii) unlawfully reverse[d] the issuance of a non-homestead property tax exemption issued to a Church." (Compl. ¶¶ 224-239 (Counts II & III).)
4. As a result of defendants' alleged conduct, plaintiffs say that they were deprived of their constitutional right of "freedom to worship and to pursue happiness." (*Id.* ¶¶ 224, 232.)

5. Plaintiffs seek compensatory and punitive damages. Plaintiffs do not seek injunctive relief.

6. Senator Garrett and Director Hamer move to dismiss plaintiffs' complaint on five grounds:

- a. The Court should decline to exercise jurisdiction over plaintiffs' claims against defendants Garrett and Hamer under the *Younger* abstention doctrine.
- b. Plaintiffs' claims against defendants Garrett and Hamer are barred by the Eleventh Amendment.
- c. Plaintiffs have failed to state a claim against defendants Garrett or Hamer.
- d. Plaintiffs' claims against defendant Garrett are barred by *Noerr-Pennington* immunity.
- e. Plaintiffs' claims against defendant Hamer are barred by judicial or quasi-judicial immunity.

7. A memorandum of law is submitted in support of this motion.

For the reasons set forth above, and discussed in greater detail in their memorandum of law in support of their motion to dismiss, Senator Susan Garrett and Director Brian Hamer respectfully request that this Honorable Court dismiss plaintiffs' complaint against them with prejudice.

Respectfully submitted,

LISA MADIGAN
Illinois Attorney General

/s/S. Ann Walls
S. Ann Walls
Meghan O. Maine
Assistant Attorneys General
General Law Bureau
100 West Randolph Street, 13th Floor
Chicago, Illinois 60601
(312) 814-2527/5165 Phone